

ORDER NO. 582

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Tony L. Hammond, Vice Chairman;
Mark Acton;
Dan G. Blair; and
Nanci E. Langley

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket Nos. CP2011-28
CP2011-29
CP2011-30
CP2011-31
CP2011-32

NOTICE AND ORDER CONCERNING FIVE ADDITIONAL GLOBAL
EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENTS

(Issued November 8, 2010)

I. INTRODUCTION

On November 5, 2010, the Postal Service filed a notice announcing that it has entered into five additional Global Expedited Package Services 3 (GEPS 3) contracts.¹ The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS contracts, and are supported by Governors' Decision

¹ Notice of United States Postal Service of Filing Five Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreements and Application For Non-Public Treatment of Materials Filed Under Seal, November 5, 2010 (Notice).

No. 08-7, attached to the Notice and originally filed in Docket No. CP2008-4. *Id.* at 1, Attachment 3. The Notice explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 2. In Order No. 290, the Commission approved the GEPS 2 product.² In Order No. 503, the Commission approved the GEPS 3 product. Additionally, the Postal Service requested to have the contract in Docket No. CP2010-71 serve as the baseline contract for future functional equivalence analyses of the GEPS 3 product.

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 3.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachments 1A through 1E—redacted copies of the five contracts and applicable annexes;
- Attachments 2A through 2E—certified statements required by 39 CFR 3015.5(c)(2) for each contract;
- Attachment 3—a redacted copy of Governors’ Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis of the formulas, and certification of the Governors’ vote; and
- Attachment 4—an application for non–public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

² Docket No. CP2009-50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

The Notice advances reasons why the instant GEPS 3 contracts fit within the Mail Classification Schedule language for the GEPS 3 product. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contracts from the baseline GEPS 3 agreement. *Id.* at 4-5. It states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contracts' functional equivalency. *Id.* at 3-4. The Postal Service asserts that "[b]ecause the agreements incorporate the same cost attributes and methodology, the relevant characteristics of these five GEPS contracts are similar, if not the same, as the relevant characteristics of previously filed contracts." *Id.* at 4.

The Postal Service concludes that its filings demonstrate that each of the new GEPS 3 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GEPS 3 contract. Therefore, it requests that the instant contracts be included within the GEPS 3 product. *Id.* at 5.

II. NOTICE OF FILING

The Commission establishes Docket Nos. CP2011-28 through CP2011-32 for consideration of matters related to the contracts identified in the Postal Service's Notice.

These dockets are addressed on a consolidated basis for purposes of this Order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642. Comments are due no later than November 16, 2010. The public portions of these filings can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. CP2011-28 through CP2011-32 for consideration of matters raised by the Postal Service's Notice.
2. Comments by interested persons in these proceedings are due no later than November 16, 2010.
3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these dockets.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary